



**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

TOBY TERESA GIBONEY,

Plaintiff,

v.

CITY OF SPARKS POLICE OFFICERS,
et al.,

Defendants.

3:09-CV-0397-LRH (VPC)

REPORT AND RECOMMENDATION
OF U.S. MAGISTRATE JUDGE

This report and recommendation is made to the Honorable Larry R. Hicks, United States District Judge. The action was referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and the Local Rules of Practice, LR IB 1-4.

On April 27, 2010, this court dismissed plaintiff's complaint without prejudice with leave to amend (#2). Plaintiff was granted thirty (30) days within which to file his first amended complaint if he believed he could correct the deficiencies noted in the order. *Id.* Plaintiff was cautioned that failure to comply with the order would result in dismissal of this action. *Id.* To date, plaintiff has failed to file an amended complaint.

Based upon the foregoing, the undersigned magistrate judge recommends that plaintiff's complaint be dismissed with prejudice.

The parties should be aware of the following:

1. They may file, pursuant to 28 U.S.C. § 636(b)(1)(C) and Rule IB 3-2 of the Local Rules of Practice, specific written objections to this Report and Recommendation within fourteen (14) days of receipt. These objections should be titled "Objections to Magistrate Judge's Report and

1 Recommendation” and should be accompanied by points and authorities for consideration by the
2 District Court.

3 2. This Report and Recommendation is not an appealable order, and any notice of appeal
4 pursuant to Rule 4(a)(1), Fed. R. App. P., should not be filed until entry of the District Court’s
5 judgment.

6 **RECOMMENDATION**

7 For the reason stated above, the undersigned Magistrate Judge recommends that the District
8 Court enter an order **DISMISSING** this case with prejudice.

9 DATED: September 20, 2010.

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12 UNITED STATES MAGISTRATE JUDGE
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